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August 21, 2024

Magistrate Judge Steven Locke
Eastern District Court New York
100 Federal Plaza, Room 820
Central Islip, New York 11722

**Re: *SiteOne Landscape Supply, LLC v. Nicholas Giordano et al. (2:23-CV-02084)*
Letter Request to Adjourn Deadline for Motions to Join New Parties or Amend
Pleadings**

Dear Judge Locke:

This firm is counsel to Plaintiff SiteOne Landscape Supply, LLC ("SiteOne"). Pursuant to the Court's Text Order entered July 23, 2024, the current deadline to file motions to join new parties or amend the pleadings is August 23, 2024. SiteOne writes to request another adjournment of that deadline to September 23, 2024. The basis for SiteOne's request is that the Defendants—particularly the Vic Defendants¹—have moved at a glacial pace in the discovery process and SiteOne is not currently able to fully assess whether it needs to further amend its Amended Complaint to add new claims or parties.

At this point, SiteOne believes it may need to further amend its Amended Complaint to add new claims or amend its current claims because the Defendants appear to be moving or expanding their competing business to a new property located on Horseblock Road. But, due to the Vic Defendants refusing to cooperate in discovery (explained further below), SiteOne has insufficient information at this time as to whether its belief is accurate and whether the new business location involves additional potential defendants. Further, SiteOne may need to add another corporate entity to this case, Don Caroleo Ventures, LLC, a company owned by Defendants Don and Vic Caroleo.

With respect to the status of discovery, the Vic Defendants' inexcusable discovery delays forced SiteOne to file its Motion to Compel and for Sanctions on August 19. [Dkt. No. 141.] SiteOne will not recount the Vic Defendants' conduct here for brevity's sake, but as of the filing of this Motion the Vic Defendants had not produced a single document since June 11 and had not

¹ The "Vic Defendants" (all represented by the same counsel) are Victor Caroleo; Nicholas Giordano; Narrow Way Realty Ltd.; Narrow Way 2 LLC; Scapes Supply LLC; Neway Management; and Group 5 Associates Ltd. The remaining Defendants (all represented by the same counsel separate from the Vic Defendants) are referred to as the "Don Defendants."

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served their supplemental discovery responses even though the parties had finished meeting and conferring on them many weeks prior. The Don Defendants have been more engaged than the Vic Defendants, but multiple discovery issues remain unresolved as of the date of this Motion.

SiteOne previously requested that the original June 20, 2024 deadline to join new parties or amend the pleadings be adjourned to July 22 because the parties were still in the early stages of discovery. The Court granted SiteOne's request by a Text Order, dated June 20. SiteOne later filed letter motions on July 19 and July 22 [Dkt. Nos. 137, 138] requesting an extension of the deadline to join new parties or amend pleadings to August 23; this was again due to the status of case discovery. This Court granted that request on July 23 via Text Order.

On August 15, the undersigned requested Defendants' consent for SiteOne's request to extend the deadline to September 23. On August 16, the respective counsel for Defendants agreed to only a two-week extension of the deadline to September 6. Defendants' counterproposal is, quite frankly, absurd. The Vic Defendants have only produced 17 documents to date (and those were produced on June 11) and not a single document since SiteOne's last request to extend these deadlines. There are multiple other, material discovery disputes outstanding between the parties. SiteOne also has multiple outstanding third-party subpoenas (one of which being to Don Caroleo Ventures, LLC) which seek documents which will inform whether SiteOne needs to amend its Amended Complaint.

Given the status of discovery, SiteOne does not believe it will have sufficient discovery responses and document productions within the next two weeks for SiteOne to determine whether it needs to join new parties or amend its Amended Complaint. Accordingly, SiteOne respectfully requests Your Honor grant an adjournment of the deadline to file motions to join new parties or amend the pleadings to September 23, 2024.

We thank Your Honor for your consideration and attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John 'Evan' Gibbs III".

John "Evan" Gibbs III